

THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

IN RE: TERRORIST ATTACKS ON)	
SEPTEMBER 11, 2001)	03 MDL 1570 (RCC)
)	
Relates to:)	
)	
New York Marine and General Insurance)	
Company, <i>et al.</i> ,)	04 CV 6105 (RCC)
)	
v.)	
)	
Al Qaida, <i>et al.</i> ,)	
)	

**REPLY MEMORANDUM OF LAW IN SUPPORT OF
MOTION TO DISMISS
OF DEFENDANT SAMI OMAR AL-HUSSAYEN**

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July 5, 2005

Plaintiffs failed to allege any factual allegations against Defendant Sami Omar Al-Hussayen in their First Amended Complaint. Plaintiffs also failed to file a RICO Statement relating to Mr. Al-Hussayen as required by this Court. Plaintiffs now have failed to file a substantive response to Mr. Al-Hussayen's motion to dismiss filed on March 14, 2005 (03 MDL 1570 Docket No. 727; 04 CV 6105 Docket No. 57). Instead, they have filed a confusing "Memorandum" in which the few pages comprising this pleading were filed out of order and in which Plaintiffs make no substantive argument seeking instead to "adopt the argument" made by other lawyers in another case. *See* Plaintiffs' Memorandum of Law in Opposition to Motion to Dismiss of Defendant Sami Omar Al-Hussayen, page "iv" (filed only in 04 CV 6105 Docket No. 103).¹

Plaintiffs have not asserted any factual allegations against Mr. Al-Hussayen, they have not complied with the Court's requirement to file a RICO Statement and they have not asserted any substantive arguments in response to Mr. Al-Hussayen's motion seeking dismissal of the present action. Accordingly, the motion should be granted and Mr. Al-Hussayen dismissed from this action.

DATED this 5th day of July, 2005.

NEVIN, BENJAMIN & MCKAY LLP

/s/
 Scott McKay (SM3330)
 Attorneys for Defendant Sami Omar Al-Hussayen

¹ Plaintiffs' failure to file their Memorandum in the MDL action (03 MDL 1570) violates Case Management Order #2, which requires that documents intended to apply only to a particular individual action or actions are to be "filed and docketed both in the Master File and the separate file(s) for the specified Individual Action(s). . . ." Case Management Order #2 at 3, ¶ 5.

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of July, 2005, I caused a copy of the **Reply Memorandum of Law in Support of Motion to Dismiss of Defendant Sami Omar Al-Hussayen** to be served electronically pursuant to the Court's ECF system.

/s/
Scott McKay